IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

CIVIL APPLICATION NO.58 OF 2005
WITH
CIVIL APPLICATION NO.59 OF 2005
IN
CONTEMPT PETITION NO.436 OF 2004

Shri Baburao Jayaram Dhanu & Ors. ...Applicants.
Vs.
Shri Narrottam Janardhan Patil & Ors. ...Respondents.

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Mr. Y.S. Jahagirdar, Senior Advocate with Mr. R. P. Lote for the Applicants.
Mr. K. N. Kore for Respondent Nos. 1 and 2.

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**CORAM : DR. D.Y. CHANDRACHUD, J.**

**December 9, 2005.**

**P.C.:**

The applicants have succeeded in a long drawn out litigation in establishing their rights. The Division Bench of this Court by its order dated 1st September 2004 directed that the eight flats which had been kept vacant in pursuance of the interim order dated 12th December 2000 shall be handed over to the respective members entitled to the same within a period of eight weeks. Those eight allottee members are the applicants before this Court in the Civil Applications. The order passed by the Division Bench of this Court was in a Letters Patent Appeal and the order of the

Learned Single Judge came to be confirmed. The Supreme Court dismissed the Special Leave Petition filed by the Co-operative Society against the order of the Division Bench on 18th August 2005 (SLP (Civil) 26259 of 2004). It is common ground that another Special Leave Petition (SLP (Civil) 704 of 2005) which was filed by the rival claimants was also dismissed by the Supreme Court on 18th August 2005. The Society has refused to comply with the orders of this Court which have been affirmed by the Supreme Court. The Contempt Petition has accordingly been admitted.

Having regard to these circumstances, it is, in my view, necessary that the Court Receiver be appointed as Receiver of all the eight flats, details whereof are furnished in the Civil Applications. The Receiver shall appoint the eight applicants as his agents without security or royalty. The eight applicants shall, however, be liable to pay the usual maintenance charges and the balance of the consideration of Rs. 2.13 lakhs in respect of each flat in accordance with the order dated 18th August 2005. The Co-operative Housing Society has been served, but has not appeared in this Court despite service of the Civil Applications and it is apparent that an effort has been made to avoid compliance of the order of the Court. Counsel appearing on behalf of the First and Second Respondents who are claiming to be erstwhile members of

the Managing Committee stated that a Review Petition has been filed before the Supreme Court at the behest of some of the rival claimants. In my view, keeping the flats locked for a further period shall not subserve the interests of justice. The appointment of a Receiver will also protect the claim of the rival group in the event that any merit is found in the Review Petition. In these circumstances, the Civil applications are made absolute in terms of prayer clause (a). In the event that the Co-operative Housing Society obstructs in handing over possession, the Receiver will be at liberty to break open the locks with the aid of Police protection if necessary.

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